

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

AARON ISRAEL,

Plaintiff,

vs.

CRAIG HANKS, *et al.*,

Defendants.

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1:04-CV-415-RLY-TAB

Entry Directing Remand to State Court

The court, having considered the above action and the matters which are pending, makes the following rulings:


1. As noted in the Entry issued in conjunction with the status conference conducted on January 12, 2006, the remaining claim in this action is that prison authorities have treated plaintiff contrary to the manner directed in Title 11 of the Indiana Code. This claim remains following the dismissal without prejudice of the plaintiff's claims pursuant to 42 U.S.C. § 1983 and claims asserted to be based directly on the Indiana Constitution. These rulings were made in the court's Entry of October 14, 2004.

2. This action came to federal court upon being removed from the Marion County Superior Court. When a district court dismisses the claims over which it had original jurisdiction, it has discretion either to retain jurisdiction over the supplemental claims or to dismiss them. 28 U.S.C. § 1367(c)(3); *Kennedy v. Schoenberg, Fisher & Newman, Ltd.*, 140 F.3d 716, 717 (7th Cir.), *cert. denied*, 119 S. Ct. 167 (1998); *Wright v. Associated Insurance Cos., Inc.*, 29 F.3d 1244, 1250 (7th Cir. 1994). The general rule under these circumstances is to dismiss the pendent state law claims. *Carnegie-Mellon Univ. v. Cohill*, 484 U.S. 343, 350 n.7 (1988) ("in the usual case in which all federal law claims are eliminated before trial, the balance of factors to be considered under the pendent jurisdiction doctrine--judicial economy, convenience, fairness, and comity--will point toward declining to exercise jurisdiction over the remaining state-law claims") (citing *United Mine Workers of America v. Gibbs*, 383 U.S. 715, 726 (1966)). The general rule will be followed in this case.

3. The action is **remanded to Marion Superior Court**. A separate order consistent with this decision, and also consistent with the resolution of certain claims in the Entry of October 14, 2004, shall now issue.

IT IS SO ORDERED.

Date: January 25, 2006



RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

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